

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

East Ridge Acres Community LLC; Magic
City Community LLC; and Wheatland
Village Community LLC,

Plaintiffs,

vs.

ERA Homes LLC; ERA MHC LLC; Magic
City Homes LLC; Magic City MHC LLC;
and Wheatland MHC LLC,

Defendants.

Case No. 1:24-cv-00063

ORDER REGARDING SUBJECT MATTER JURISDICTION

[¶1] THIS MATTER comes before the Court *sua sponte* on the issue of whether this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 (diversity jurisdiction) regarding the citizenship of the Parties. For the reasons set forth below, the Defendants are **ORDERED** to supplement the record to establish the citizenship of each Party.

[¶2] In diversity actions, the Court only has jurisdiction to hear cases between citizens of different states where the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1332. Federal Courts have a duty to consider, *sua sponte*, whether they have subject matter jurisdiction over the controversy before allowing the case to proceed. Mt. Healthy City Sch. Dist. Bd. Of Educ. V. Doyle, 429 U.S. 274, 278 (1977). To establish the citizenship of an LLC, the record must show the citizenship of each member of the LLC. GMAC Com. Credit LLC v. Dillard Dep’t Stores, Inc., 357 F.3d 827, 829 (8th Cir. 2004) (“Holding an LLC’s citizenship is that of its members for diversity jurisdiction purposes, we are unable, from this record, to determine the citizenship of

GMAC’s members.”). Importantly, allegations of the state of residency of a party do not suffice to show the state of citizenship. Hargett v. RevClaims, LLC, 854 F.3d 962, 965 (8th Cir. 2017) ([T]he term ‘citizen’ in 28 U.S.C. § 1332 has long meant something different from resident.”). “It is simply incorrect to say [a party’s] Arkansas residency establishes Arkansas citizenship for the purpose of § 1332(a)(1).” Id. This is because “citizenship requires permanence” while “[r]esidency is a more fluid concept.” Id. This is because “citizenship requires permanence” while “[r]esidency is a more fluid concept.” Id.

[¶3] As the record currently stands, the state of residency for each member of the LLCs is alleged. For the Plaintiffs, they are all single-member LLCs with Caleb Romack (“Romack”) as the member. Doc. No. 1, ¶¶ 4-6. The record shows Romack is a “resident of the State of Washington.” Id.; Doc. No. 1-2, ¶ 6. Because the record only shows Romack’s residency, the record needs further clarification from the Defendant.

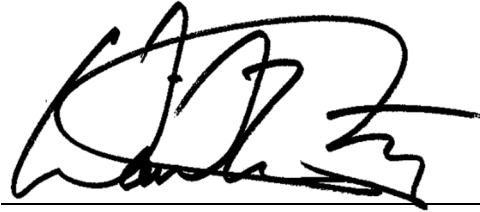
[¶4] For Defendants ERA Holms LLC, ERA MHC LLC, Magic City Homes LLC and Magic City MHC LLC, each are each dual-member LLCs with Abraham Anderson (“Anderson”) and Malcolm Fan (“Fan”) listed as the members. Doc. Nos. 1, ¶¶ 7-10; 1-2, ¶ 1-4. Defendant Wheatland MHC LLC is a single-member LLC with Anderson named as its member. Doc. Nos. 1, ¶¶ 11; 1-2, ¶ 5. Anderson and Fan are alleged to be “resident[s] of Sevier County, Tennessee.” Doc. No. 1, ¶¶ 7-11; 1-2, ¶¶ 1-5. Because the record only shows Anderson’s and Fan’s state of residency, the record needs further clarification from the Defendant.

CONCLUSION

[¶5] Based upon the foregoing, the Defendants are **ORDERED** to supplement the record establishing the citizenship of each member of the LLCs by **May 6, 2024**.

[¶6] **IT IS SO ORDERED.**

DATED April 22, 2024.

A handwritten signature in black ink, appearing to read 'D. Traynor', written over a horizontal line.

Daniel M. Traynor, District Judge
United States District Court